

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- April 12, 1967

Appeal No. 9167 Cleveland Park Club, Inc., appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded with Mr. Arthur P. Davis dissenting, the following Order was entered at the meeting of the Board on June 20, 1967.

ORDERED:

That the appeal for permission to erect community center building and swimming pool and for a variance from the provisions of Section 7202 for waiver of 9 off-street parking spaces at 3433 - 33rd Place, NW., lot 883, square 2072, be denied.

FINDINGS OF FACT:

(1) The appeal was originally scheduled to be heard in April, 1967 but was not heard until the public hearing on June 14, 1967.

(2) The subject property is located in an R-1-B District.

(3) The appeal requests permission to construct a community center building with swimming pool, and a variance from the parking provisions of Section 7202 of the Zoning Regulations for permission to waive 9 off-street parking spaces.

(4) The subject property consists approximately one-third acres of land improved with a frame two-story and basement dwelling with a swimming pool in the rear yard.

(5) The property has been used as the Cleveland Park Club, a non-profit organization, since 1923.

(6) At the time of the public hearing the Cleveland Park Club had approximately 150 family memberships.

(7) The purpose of the Club, as stated in the By-Laws (BZA Exhibit No. 95), "is to provide its membership with a medium and the facilities for discussion of topics of mutual interest, education, and participation in community activities." The articles of incorporation mention as objects of the Club: "To promote social intercourse, recreation and sports, literature and for mutual improvement."

(8) Prior to May 18, 1967, Section III, Paragraph 2 of the By-Laws read as follows:

"Regular members are those duly elected as provided herein who remain in good standing with respect to all the requirements set forth in these By-Laws. Candidates for regular membership shall be elected by the Board of Governors. Every candidate shall be proposed by one regular member and seconded by another. The names of candidates and their proponents shall be posted in the Club House for at least 14 days before the Board of Governors shall take action thereon. Two dissenting votes shall be sufficient to exclude a candidate, and such candidate shall not again be voted upon within six months. Any member may resign from the Club after payment of all dues by delivering his resignation in writing to the Secretary. The Board of Governors, after due notice and hearing may expel any member of the Club whose conduct they may deem to endanger the welfare, interest or character of the Club, provided not less than six of their number concur in such expulsion. A member thus expelled shall be entitled to appeal to the Club within one month, and it shall then be the duty of the Board to call a special meeting of the Club at which the appeal shall be considered and the member reinstated if two-thirds of the members present at said meeting shall so vote. To remain in good standing a regular member must be in residence within the John Eaton School District (as defined in school year 1964-65) or within one-half mile of the Club property. No present member shall be deprived of membership because of his place of residence as of the date May 18, 1967. The number of regular members shall at no time exceed 150.

"When going to the Club, members should walk whenever possible. Members who drive to the Club shall refrain from parking within a distance of one block in all directions from the corner of 33rd Place and Highland Place and from the Club entrance on Ordway Street. The Board is empowered to enforce this policy by appropriate sanctions."

(9) On May 18, 1967 the Club amended Section III, Paragraph 2 of the By-Laws to read in part; "Any adult residing within the neighborhood shall be eligible for membership without regard to race, creed or color. The neighborhood shall be the John Eaton School District (as defined in the school year 1964-65) plus any additional area within one-half mile of Club property. Each candidate shall apply to the Secretary in writing for membership. The names of candidates shall be listed by the Secretary and the Board of Governors shall, at its next meeting, satisfy itself as to their eligibility as defined above. Thereafter the Secretary shall, as vacancies occur, notify such duly listed candidates of their membership in the order of the date of their application and they shall be entitled to the privileges of membership on the payment of the initiation fee, if any. Priority on such list shall be afforded residents of property abutting the Club. Husbands and wives of the same household shall together constitute one member.***"

(10) Section V of the By-Laws provides that the management of the Club shall be under a Board of Governors consisting of six members elected for three-year terms. Further, Paragraph 2 of Section V provides: "The Board of Governors shall have the power to determine the scale of dues and other fees that shall be charged for membership and other privileges of the Club, to limit the total membership (provided, however, that no limit of less than 50 memberships shall be established), to prescribe rules concerning the use of the Club House, the swimming pool, and other facilities, and to take such action as may be necessary or appropriate in the case of members whose dues and/or other fees are in arrears."

(11) Section 1202 of the Zoning Regulations defines a private club as follows: "A building or portion thereof used by an association organized for the promotion of a common social objective and not for profit, whose facilities are limited to its members and their guests. Such building may or may not include facilities for the preparation and service of meals and alcoholic beverages, and rooms of suites of rooms for residential occupancy."

(12) The Zoning Regulations do not define a community center building. However, Webster's Unabridged Dictionary defines a community center as "a place used as a center for, or an organization promoting, educational, philanthropic, or other work for the betterment of a community."

(13) It is proposed that the existing swimming pool (20' x 40') which accommodates approximately 35 persons at one time be enlarged to 25' x 75' and double the capacity.

(14) The Club now holds approximately 15 meetings a year with an average attendance between 15 and 50 persons. The Club building is also available to members for various activities, and is sometimes rented or donated to groups for purposes such as the Vassar Alumni, Sundial Training, Math Classes etc.

(15) There are also family programs during the year, averaging one a year, at which the attendance exceeds that at the meetings. Dances and game nights are also held at the Club building.

(16) Certificate of Occupancy No. B-8194, dated October 28, 1957, was issued for the use of the subject premises as a "private club for educational and recreational purposes."

(17) In BZA Appeal No. 7673 the Board unanimously denied permission to the Cleveland Park Club to relocate the swimming pool. This Order was entered on May 27, 1964 and entered on the official records on October 23, 1964.

(18) The activities proposed for the club, if this appeal is granted, are substantially the same as on the date of the appeal.

(19) A number of persons present at the public hearing favored this appeal and a few persons opposed it. The record contains over 125 letters in support and some 20 letters in opposition.

(20) The objections raised against this Club was mainly that the increased facility would aggravate traffic problems, create more noise in the area, and that the facility is not a community center organization within the definition of that term in the Regulations.

(21) On August 16, 1967 the appellant requested the Board to grant a rehearing or reconsider its decision in this case. At its executive session on August 16, 1967 the Board, by a 4-1 vote, Mr. Harps dissenting, denied the request for rehearing or reconsideration on the grounds that there was no showing that there was new evidence that was not or could not have reasonably been presented at the original hearing.

OPINION:

We are of the opinion that this appeal must be denied.

Although the appeal was filed as a special exception under the provisions of Section 3101.45 of the Zoning Regulations, we do not deem it controlling whether the organization conducts a private club or a community center building, as both of these uses would have to meet the requirement of harmony with the regulations. Section 8207.2, which authorizes special exceptions, requires that the proposed use "will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said zoning regulations and maps."

Section 3101.1 of the Regulations states: "The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for such purposes. The regulations are designed to stabilize such areas and to promote a suitable environment for family life." A community center building and/or swimming pool operated by a local community organization is generally considered a use compatible with residential zoning. Nevertheless, such use must not present objectionable features to the quiet residential area.

We quote from the Board's opinion in 1964:

"The Board, however, is unable to find that the community use proposed is reasonably necessary or convenient to the neighborhood in which it is located, nor are we able to find that it is not objectionable in a residence district because of noise or traffic. Finally, we conclude that the club use existing, which is not materially different from the new use contemplated, is already incompatible with this R-1 District, and that it is not now as a nonconforming use in harmony with the general purpose and intent of the Zoning Regulations and maps, and that it does tend to affect adversely the use of neighboring property in accordance with these regulations. We note that the property is restricted in size to an area under normal R-1 conditions would accommodate no more than three families; that the facilities are currently being utilized particularly in the summer months by many times the number of persons who would normally be utilizing strictly residential facilities; and that the enlargement of the facilities for this use will compound a

condition already tending to have an adverse impact on the value and stability of the adjoining area."

We believe that this portion of the previous opinion is as true at this time as in 1964.

The subject property is legally occupied as a private club and swimming pool. There is conflicting testimony in the record relating to the impact of this use on the nearby residential uses. The current proposal would double the size of the swimming pool capacity and materially increase the size of the club building. There is no question in our opinion that the increased capacity will increase the impact of the club on the residential neighborhood. We do not believe that the evidence leads to the conclusion that the proposed increase will not have an adverse affect upon the quiet residential district that the R-1 zoning is designed to preserve, and we do believe that the increased capacity of the pool and building is likely to have an adverse effect upon the residential district.

The Regulations place the burden upon the appellant to prove that his request will not contravene the purpose and intent of the Zoning Regulations. From the evidence before use, we must hold that the increase in this club facility will likely have an objectionable impact upon this R-1 residential district. The letters supporting the request do not convince us otherwise.

MR. HATTON:

In order to grant a special exception in this case, it is also necessary to grant a variance. I am of the opinion that an appellant for a special exception (privileged use) should make every effort to exceed the minimum standards of the regulations. The Board should exercise caution in granting an exception that does not meet the minimum standards of the regulations.